



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

**OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION**

To: Richard P. Keigwin, Jr., Director
Office of Pesticide Programs

From: Michael L. Goodis, Director
Registration Division
Office of Pesticide Programs

Michael Goodis

05/20/20

Subject: Repeat Section 18 Emergency Exemption Requests for Bifenthrin Use on Apple, Peach, and Nectarine to Control the Brown Marmorated Stink Bug (BMSB) in Maryland (20-MD-01, -02, and -03), Pennsylvania (20-PA-01, -02, and -03), and Virginia (20-VA-01, -02, and -03)

This is the **ninth** year that emergency exemption requests have been submitted for these uses, which have been authorized for the past eight years to DE, MD, NC, NJ, NY, PA, VA, and WV (with the exception of DE who did not request exemptions for the uses in 2019). The other states typically have a later use season, but it is expected that requests will be received from them for this year as well. The use pattern requested this year is the same for all three crops and is identical to that from the past exemptions. For further details about the emergency and risk evaluations, the 2012 Decision Memorandum is attached.

Maryland Department of Agriculture was authorized a maximum of 3,570 acres under the 2019 exemption and indicated that approximately 2,000 acres were treated.

Pennsylvania Department of Agriculture was authorized a maximum of 24,973.4 acres under the 2019 exemption and indicated that approximately 8,240 acres were treated.

Virginia Department of Agriculture and Consumer Services was authorized a maximum of 29,000 acres under the 2019 exemption, and based on best available information, up to 5,100 acres may have been treated at the minimum rate allowed.

Applicant Requests: The applicants state that the BMSB, a recently introduced invasive pest, continues to pose a threat to pome and stone fruit trees in the US. There are no natural enemies in the US to provide reliable biological control. Furthermore, available pesticide controls are limited and inadequate to provide season-long control of BMSB populations that reach damaging levels, as first occurred in 2010. Because BMSB populations vary between years and over different localized areas, the acreage treated has varied. However, the applicants note that an

emergency still exists when populations develop at high levels. The applicants also observed increased BMSB populations during 2016-2017, as compared to the prior two years (2014-2015).

Agency Evaluation: All findings of the science divisions (BEAD, HED, and EFED) supported the criteria for allowing emergency exemptions for these uses. Time-limited tolerances for apple, peach, and nectarine at 0.5 ppm were established for the previous exemptions and are set to expire on December 31, 2021.

Progress Toward Registration: IR-4 submitted tolerance petitions to EPA in 2016 to support the registration of these uses. The PRIA date was extended to September 25, 2020 to allow for full evaluation of bifenthrin in connection with Registration Review, including assessing the impact of these and other proposed new uses. Under Registration Review, a proposed interim decision was signed March 24, 2020 (and due to be announced in the Federal Register very soon to allow for public comment). PRD has indicated that an interim decision is targeted for the 4th quarter of FY20. PRD also published an ecological risk mitigation proposal in the Federal Register, in November of 2019 for 23 pyrethroids, including bifenthrin, and the public comment period for that document recently closed on February 12, 2020. Therefore, progress has been made toward conclusion of the Registration Review which has delayed EPA's decision on the registration actions for these uses.

Recommendation: RD has confirmed that the need still exists and there do not appear to be any outstanding risk data that might undermine the previous safety findings. The RD/MUERB analyst confirmed that these requests meet the criteria for re-certification of the emergency and a streamlined application for 2021, and this determination is included in the attached letters. Therefore, I recommend that the attached actions be approved.

Concurrence: _____
Richard P. Keigwin, Jr., Director
Office of Pesticide Programs

Date: _____ May 21, 2020